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Counsel to Westlake Limited Partnership

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

IN RE:) Chapter 11
) Case No. 08-35653 (KRH)
CIRCUIT CITY STORES, INC., et al.,)
) Jointly Administered
Debtors.)

**RESPONSE OF WESTLAKE LIMITED PARTNERSHIP
TO LIQUIDATING TRUST'S SEVENTEENTH OMNIBUS OBJECTION TO
LANDLORD CLAIMS (REDUCTION OF CERTAIN PARTIALLY INVALID CLAIMS,
RECLASSIFICATION OF CERTAIN MISCLASSIFIED CLAIMS, DISALLOWANCE
OF CERTAIN INVALID CLAIMS, DISALLOWANCE OF CERTAIN LATE FILED
CLAIMS, DISALLOWANCE OF CERTAIN DUPLICATE CLAIMS, AND
DISALLOWANCE OF CERTAIN AMENDED CLAIMS)**

Comes now Westlake Limited Partnership, a previous landlord of the Debtor, Circuit City Stores, Inc. and for its response to the Liquidating Trustee's Seventeenth Omnibus Objection to Landlord Claims, Docket Number 10061 states as follows:

1. The Claimant's Name is Westlake Limited Partnership ("Westlake"), which was previously a Landlord for a Circuit City Store located in Peoria, Illinois. The Lease between Westlake and Circuit City was dated February 28, 1997.

2. On February 9, 2011 Westlake filed an Amended Administrative Proof of Claim designated as Claim Number 15213 in the amount of \$86,860.41, which included the claim for the "Stub" portion of the rent and related charges involving rent, CAM, CAM reconciliation and

real estate taxes for \$50,024.38. This claim also included the attorneys' fees and expenses incurred by Westlake in connection with enforcement of its Lease obligation in the amount of \$36,836.03. The total Administrative claim filed amounted to \$86,860.41.

3. The Trustee has objected to this claim on the basis that it is a general unsecured claim and that the post-petition claim for \$4,050.51 of CAM charges and attorneys' fees incurred in the amount of \$36,836.03 are "not allowed".

4. The person with personal knowledge of the relevant facts supporting the response is Les Cohen, Cohen Development Company, 406 SW Washington Street, Peoria, Illinois 61602, Telephone Number (309) 671-1000.

5. The Bankruptcy Court should overrule the objections to this claim because the costs and expenses incurred which are objected to are valid expenses incurred by the Debtor subsequent to the filing of the Bankruptcy Petition. The claims for real estate taxes and CAM reconciliation were incurred and were required to be paid by Circuit City under its Lease with Westlake. The attorneys' fees incurred are the obligations of Circuit City under the Lease between Circuit City and Westlake. Westlake intends to introduce documentation to support its claim through its Lease, real estate tax records for the property and statements of the attorneys' fees incurred in connection with this matter. The Debtor is obligated to pay these sums pursuant to 11 U.S.C. §365(d)(3). See also, In re Trak Auto Corporation, 277 B. R. 655 (Bkrtcy. E.D. Va. 2002).

6. Prior to the filing of this response, counsel for Westlake has been in communications with a representative of the Trustee, Jeff Knopke. Based upon these discussions, it appears that the Liquidating Trustee does not now object to the CAM charges in the amount of \$4,050.51 and does not object to the classification of the Westlake claim as an

administrative claim and not a general unsecured claim. There still seems to be a dispute regarding the amount of and the ability of the Westlake to obtain attorneys' fees.

7. The claimants address, telephone number, fax number and the claimant's attorney to whom the attorneys for the Debtor should serve a reply to the response are as follows:

Westlake Limited Partnership
c/o Les Cohen
Cohen Development Company
406 SW Washington Street
Peoria, Illinois 61602

Attorney: Paul S. Bliley, Jr.

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8. The name, address, telephone number and fax number of the party to reconcile, settle or otherwise resolve the objection on the claimant's behalf is the attorney set forth above.

Dated: April 7, 2011

WESTLAKE LIMITED PARTNERSHIP

By /s/ Paul S. Bliley, Jr.
Of Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2011, I caused a copy of the foregoing to be served by electronic means on the “2002” and “Core” lists and through the ECF system.

/s/ Paul S. Bliley, Jr.
Paul S. Bliley, Jr.

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